

REMARKS

After entry of this amendment, claims 45 and 60 – 65 are pending. Claims 1 – 44, 46 – 59 and 66 – 76 have been cancelled, without prejudice, in order to expedite prosecution of this application. Claims 45, 61, 63, and 64 were amended taking the examiner's suggestions into consideration and render the outstanding claim objections moot. No new matter is added by this amendment.

Applicants filed on 13 August 2010 a replacement oath/declaration, which addressed the objection that the oath or declaration was defective.

Claims 45, 60-66 and 68-73 are rejected under 35 USC 112, first paragraph, because the specification, while being enabling for an isolated recombinant AAV comprising an AAV9 capsid wherein the AAV9 capsid is SEQ ID NO: 123 or comprises vp3 with amino acids 203-736 of SEQ ID NO: 123, does not reasonably provide enablement for any other embodiment.

Applicants respectfully traverse this rejection.

Since the claims are enabled for a capsid comprising the sequences of vp3 with amino acids 203 – 736 of SEQ ID NO: 123, then it must follow that the claims are also enabled for a capsid comprising the sequences (of vp2) which comprise amino acids 138 to 736 of SEQ ID NO: 123. The examiner has already indicated that the claims are enabled with respect to the full-length vp1 capsid sequence recited in the claims.

The examiner argues that there is insufficient information provided in order to enable the claim to sequences of 95% identity to SEQ ID NO: 123. However, Applicants have previously pointed out that the specification discloses SEQ ID NO: 121 and SEQ ID NO: 122, which have capsid proteins which fall within this 95% identity. Applicants believe that the specification

US Patent Application 10/573,600
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provides sufficient guidance to one of skill in the art. However, in an effort to accelerate prosecution of this application, Applicants have now amended the claim to recite the two previously referenced sequences.

Reconsideration and withdrawal of this rejection is requested.

The Director is hereby authorized to charge any deficiency in any fees due with the filing of this paper, or credit any overpayment in any fees, to our Deposit Account, Number 08-3040.

Respectfully submitted,

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